

# LO246 Tehama Co

## Board of Supervisors COUNTY OF TEHAMA

District 1 – Gregg Avilla  
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March 6, 2012

Mr. Phil Isenberg, Chairman  
Delta Stewardship Council  
980 Ninth Street, Suite 1500  
Sacramento, CA 95814

RE: Draft Delta Plan Program Environmental Impact Report

Dear Mr. Isenberg:

The County of Tehama submits the following comments on the Draft Delta Plan Program Environmental Impact Report ("DEIR"). Although the formal California Environmental Quality Act (CEQA) comment period closed on February 2nd, comments submitted at this time can still form the basis for future legal challenge to the DEIR<sup>1</sup> – and the Delta Stewardship Council is consequently encouraged to give these issues its fullest attention.

Although the DEIR generally notes the possibility of impacts within the "Delta Watershed," the actual analysis of these impacts is cursory, dismissive, and non-compliant with the CEQA. For example, the proposed project (i.e., the Delta Plan) contains numerous features that will induce and increase the export of surface water from the Delta Watershed (both by facilitating future water transfers through and around the Delta, and by implementing measures that encourage and/or require increased "natural flow" of surface water into the Delta for environmental purposes). The DEIR acknowledges that such exports could result in increased groundwater usage within the Delta Watershed (DEIR § 3.4.3.1.2, Impact 3-2a, p. 3-81), but then remarkably concludes that the resulting impact on groundwater resources is less than significant.

This conclusion is not supported by substantial evidence. The DEIR briefly references one water transfer project (the Proposed Lower Yuba River Accord), with the conclusory assumption that it is "typical" of all future water transfers induced by the Plan. However, there is simply no evidence or analysis supporting the drafters' apparent belief that this one transfer, in one isolated area of the Delta Watershed, is actually representative of the future transfers induced or otherwise facilitated by the Plan. Future transfers will take place in potentially much larger amounts, from other groundwater basins (not all of which are – or will be – "well above historical lows" as the Yuba Basin supposedly is), in areas with different land use and irrigation patterns – all of which will drastically affect the groundwater impacts caused by such transfers. Simply assuming that one existing supposedly innocuous project is representative of all future transfers resulting from the Plan is speculation, not evidence, and utterly fails to comply with CEQA.

<sup>1</sup> (Pub. Resources Code, § 21177, subd. (a); *Galante Vineyards v. Monterey Peninsula Water Management Dist.* (1997) 60 Cal.App.4th 1109, 1120–1121; *Bakersfield Citizens for Local Control v. City of Bakersfield* (2004) 124 Cal.App.4th 1184, 1120–1121.)

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Bill on

Williams J. Goodwin  
Chief Administrator

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## Response to comment LO246-1

The EIR's description of the project's environmental setting includes sufficient detail for a program-level analysis. The analysis in this EIR assumes that groundwater water supplies would not become overdrafted because the proposed Delta Plan encourages establishment of balanced groundwater management programs (Final Draft Delta Plan, Recommendations WR R9, WR R10, and WR R11, and Policy WR P1). Therefore, it is assumed that other water supplies, including recycled water, local water storage facilities, ocean desalination, water use efficiency and conservation, and water transfers, would be used to meet the water demands projected in adopted general plans. The EIR also recognizes that portions of the agricultural areas in the San Joaquin Valley could be fallowed or retired due to the lack of water supplies to replace reduced water supplied from the Delta, if any. The impact assessments in Sections 3 through 21 evaluate the construction and operation of local and regional water supplies, and conclude, in most cases, that there may be significant and adverse impacts. Please also see Master Responses 2 and 5. As described on page 2A-39, Lines 38 through 40, of the Draft Program EIR and Master Response 5, it is anticipated that implementation of updated water quality and flow objectives by the State Water Resources Control Board (SWRCB) could increase Delta outflow, reduce current reverse flow conditions in the south Delta, increase flows in restored Delta floodplains, and result in a more "natural flow regime" in the Delta. Neither the Delta Plan nor the SWRCB's flow objectives will affect water rights. Following the adoption of its flow objectives, the SWRCB will engage in a further public proceeding, including complete environmental review, concerning implementation of the objectives, which may include altering water rights. Please see Master Response 5 for further discussion of the EIR's analysis of the updated flow objectives and the protections for exiting water uses and users. Users of CVP water in the Delta watershed could be affected if the SWRCB changes Delta outflow requirements in a manner that changes CVP water supply availability depending on contract type and hydrology. As described on page 2B-3 of the Draft Program EIR, analogous information from referenced EIRs and EISs were used to provide information about potential impacts and mitigation measures. The Lower Yuba River Accord EIR was reviewed as an example of an EIR that assessed the effects of water management, including water transfers. As described in Appendix C of the EIR, Delta Plan Policy WR P2 would require that water transfer negotiations for covered actions be conducted consistent with current policies of the Department of Water Resources and

the Bureau of Reclamation. These policies already govern the vast majority of long-term transfers. Accordingly, WR P2 is unlikely to substantially affect such transfers. Delta Plan Recommendation WR R15 recommends the Department of Water Resources and the State Water Resources Control Board to work with stakeholders to identify and recommend measures to reduce procedural and administrative impediments to water transfers and protect water rights and environmental resources. The expiration date of covered action exemptions for temporary, one-year water transfers was extended to December 31, 2016, in the Final Delta Plan. Secondary physical impacts that could result from changes in water supply and transfers are discussed in Master Response 5.

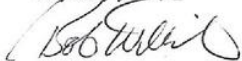
Further, this discussion includes no analysis of the effects of the "natural flow" regime demanded by the Plan, which – by demanding increased surface water flow through the Delta – will correspondingly decrease available surface water supplies for irrigation and domestic uses in the Delta Watershed and in turn vastly increase reliance on groundwater, with all of its attendant impacts. The failure to fully analyze this aspect of the Plan's impacts likewise violates CEQA.

The failure to adequately analyze groundwater impacts has collateral effects on the sufficiency of the DEIR's analysis of Agricultural Resources, Land Use, and Population and Housing. The Delta Watershed will experience significant impacts in all of these areas due to the surface water exodus induced by the Plan (which reduces available water supplies to support agriculture and housing, and affects land use patterns dependent upon water availability). Sections 6, 7, and 16 of the DEIR likewise require significant revisions to analyze these impacts and comply with CEQA.

LO246-1

We hope that the Council will take this opportunity to seriously consider the impacts of its proposed policies, and to fully engage stakeholders north of the Delta in order to develop a Plan that works for *all* of California. Thank you for your consideration.

Very truly yours,



Bob Williams  
Chairman

cc: Joe Grindstaff, Executive Officer, Delta Stewardship Council  
Governor Jerry Brown  
Congressman Wally Herger  
Senator Doug LaMalfa  
Senator Barbara Boxer  
Senator Diane Feinstein  
Assemblyman Jim Nielsen  
RCRC  
Thaddeus Bettner, General Manager, Glenn-Colusa Irrigation Dist.